

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

**RONALD LEE FRANKLIN**

**Plaintiff,**

**VS.**

**UNITED STATES DEPARTMENT OF  
AGRICULTURE, FOREST SERVICE**

**Defendant,**

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**No** \_\_\_\_\_

**COMPLAINT FOR DECLARATORY JUDGMENT AND OTHER RELIEF**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES** Ronald Lee Franklin, hereinafter called Plaintiff, complaining of and about United States Department of Agriculture, Forest Service, hereinafter called Defendant, and for cause of action shows unto the Court the following:

**PARTIES AND SERVICE**

1. Plaintiff, Ronald Lee Franklin, is a citizen of the United States and the State of Texas. Mr. Franklin is owner of the real property in dispute located in Houston County, Texas.

2. Defendant, United States Department of Agriculture, Forest Service (USDA) may be served by mailing a copy of this complaint and a summons by certified mail.

**JURISDICTION**

3. The action arises under 28 U.S.C. Sections 2201-2202 and Rule 57, Federal Rules of Civil Procedures, for the purpose of determining questions of actual controversy between the parties as hereinafter more fully appears.

**FACTS**

4. In 1972, Ronald Franklin, Plaintiff, purchased a 32 acre tract of land in Houston County, Texas, which is bordered to the south by the Defendant. The southern boundary of the property was defined in a 1951 Federal Court case, *Curtis R. Enos v. United States of America*, Civil No. 1168 (See Attached Exhibit A); however the Defendant has ignored the judgment and the boundaries set in that case.

5. Over the past thirty years, the Defendant has restricted plaintiff's entry and use of property, cut fences, constructed roads, built gates, harvesting timber, entered the property and allowed others to enter without the consent of Plaintiff. Plaintiff has repeatedly tried to settle the matter without success. The defendant's actions have clouded the Plaintiff's title to the property, and destroyed Plaintiff's use and enjoyment of the land.

6. Paramount to Plaintiff's resolution to this boundary dispute is a 1951 federal judgment in the case of *Curtis R. Enos v. United States of America*, Civil No. 1168. Plaintiff has attached a copy of the judgment as Exhibit A. Plaintiff asserts that the Northern boundary established in this judgment resolved a decades long boundary dispute and therein created the appropriate boundary between the United States' 89 acre tract otherwise known as KI Q and the Ronald Lee Franklin 31 acre tract.

### **COUNT ONE - DECLARATORY JUDGMENT**

7. Plaintiff seeks the following declaratory relief which arises out of the actions and or omissions of Defendant described hereinabove:

- a. A declaration that the Northern boundary established in Cause No. 1168, *Curtis R. Enos v. United States of America*, (1951), establishes the Southern boundary of the Ronald Lee Franklin 31 acre tract as otherwise described in Exhibit A.
- b. A declaration that the Defendant is a trespasser upon the private property of Ronald Lee Franklin inasmuch as they have encroached beyond the Southern boundary of the Ronald Lee Franklin 31 acre tract.

8. Declaratory relief is necessary to establish the legal boundary separating private property owned by Ronald Lee Franklin and property owned and possessed by the United States Forest Service.

### **COUNT TWO – U.S.C.A § 1983 ACTION**

Defendant, acted willfully, deliberately, maliciously or with reckless disregard or deliberate indifference to plaintiff's constitutional rights.

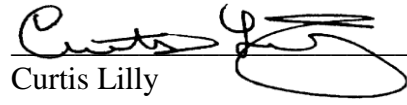
- a. The Defendant has restricted plaintiff's entry and use of property, cut fence, constructed roads, built gates, harvesting timber, entered property and allowed others to enter without consent in violation of Plaintiff's constitutional rights.

### **PRAYER**

9. For these reasons, Plaintiff asks for judgment against Defendant for the following:

- a. A declaration that the Northern boundary established in Cause No. 1168, *Curtis R. Enos v. United States of America*, (1951), establishes the Southern boundary of the Ronald Lee Franklin 31 acre tract as otherwise described in Exhibit A.
- b. A declaration that the United States Department of Agriculture, Forest Service is a trespasser upon the private property of Ronald Lee Franklin in so much as they have encroached beyond the Southern boundary of the Ronald Lee Franklin 31 acre tract.
- c. Damages for violations of constitutional rights
- d. Reasonable attorney fees.
- e. Costs of court.
- f. All other relief the court deems appropriate.

Respectfully submitted, By:

  
Curtis Lilly  
State Bar # 24030063

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ATTORNEY IN CHARGE FOR  
Plaintiff Ronald Franklin